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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,074	02/26/2004	Akifumi Nagao	56937-110	4317

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McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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FARAGALLA, MICHAEL A

ART UNIT	PAPER NUMBER
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2617

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08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/786,074	Applicant(s) NAGAO ET AL.	
	Examiner Michael Faragalla	Art Unit 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5 and 6 is/are allowed.
- 6) ☒ Claim(s) 2-4, 7, 10 and 12 is/are rejected.
- 7) ☒ Claim(s) 11 and 13-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This action is in response to the amendment filed on 07/10/2007. This action is made **FINAL**.

***IDS***

2. The information disclosure statement filed 07/10/2007 has been acknowledged.

***Claim Rejections - 35 USC § 112***

3. The rejection of Claim 7 under U.S.C. 112 second paragraph has been withdrawn in response to applicant's arguments.

***Response to arguments***

4. Applicant's arguments have been fully considered, but they are not persuasive. Therefore, this action is made final.

The argued features, i.e., a wireless LAN apparatus comprising: as a transmitting side configuration thereof, a packet length controlling unit, the packet length controlling unit controlling a packet length of transmit data; a

packet synthesizing unit; the packet synthesizing unit synthesizing the number of the transmit data corresponding to the packet length controlled by the packet length controlling unit into a packet transmit data and outputting the transmit packet data; a frame synthesizing unit, the frame synthesizing unit appending the packet length information to a header information of the transmit packet data synthesized by the packet synthesizing unit and outputting the transmit packet data as a transmit frame; and a wireless transmit unit transmitting wirelessly the transmit frame output by the frame synthesizing unit, wherein the packet length controlling unit comprises a packet length register, the packet length register capable of externally controlling the packet length information read upon Fitzgerald et al in view of Shoemake et al as follows.

Fitzgerald et al disclose a packetizer 24 that stores a table of acceptable payload sizes. Therefore, Fitzgerald et al disclose the limitation of "a wireless LAN apparatus comprising: as a transmitting side configuration thereof, a packet length controlling unit". Fitzgerald et al disclose that data is outputted afterwards to transmitter in order to be transmitted, when packet size changes are made. Therefore, Fitzgerald et al disclose the limitation of "A packet synthesizing unit, the packet synthesizing unit synthesizing the number of the transmit data corresponding to the packet length controlled by the packet length controlling unit into a packet transmit data and outputting the transmit packet data". Furthermore, Fitzgerald discloses that the header is attached to the payload data.

Therefore, Fitzgerald et al disclose the limitation of "A frame synthesizing unit, the frame synthesizing unit appending the packet length information to a header information of the transmit packet data synthesized by the packet synthesizing unit and outputting the transmit packet as a transmit frame". However, Fitzgerald et al shows an apparatus, but does not specifically show a wireless LAN apparatus comprising a wireless transmit unit transmitting wirelessly the transmit frame output by the frame synthesizing unit. Therefore, the examiner has used Shoemake to show that a wireless LAN apparatus comprising a wireless transmit unit transmitting wirelessly the transmit frame output by the frame synthesizing unit.

Regarding the argument that Fitzgerald et al in view of Shoemake et al do not disclose the limitation of "the packet length controlling unit comprises a packet length register, the packet length register capable of externally controlling the packet length information". Examiner respectfully disagrees, because Fitzgerald et al discloses a packetizer 24 that controls the packet length information and then externally transmitting the information across the network.

The references used are in related art, therefore, they can be combined and used to show obviousness with respect to prior art.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **2-4, 7, 10 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fitzgerald et al (Patent number: 6,886,040)** in view of **Shoemake et al (Patent number: 2002/0122413)**.

Consider **Claim 2**, Fitzgerald et al clearly shows an apparatus comprising:

(a) As a transmitting-side configuration thereof,

A packet length-controlling unit, the packet length-controlling unit (read as packetizer 24) controlling a packet length of transmit data (column 4, lines 64-67; column 5, lines 1-7); (packetizer 24 stores table of acceptable payload sizes).

(b) A Packet synthesizing unit, the packet synthesizing unit synthesizing the number of the transmit data corresponding to the packet length controlled by the packet length controlling unit into a packet transmit data and outputting the transmit packet data (figures 2 and 4; column 4, lines 38-46); (data is outputted afterwards to transmitter in order to be transmitted).

(c) A frame synthesizing unit, the frame synthesizing unit appending the packet length information to a header information of the transmit packet data synthesized by the packet synthesizing unit and outputting the transmit packet as a transmit frame (figures 1 and 4); (the header is attached to payload data), wherein the packet length controlling unit comprises a packet length register, the packet length register capable of externally controlling the packet-length information (column 3, lines 1-20; figure 1), Fitzgerald et al discloses a packetizer 24 that controls the packet length information and then externally transmitting the information across the network.

However, Fitzgerald et al shows an apparatus, but does not specifically show a wireless LAN apparatus comprising a wireless transmit unit transmitting wirelessly the transmit frame output by the frame synthesizing unit.

In the same field of endeavor, Shoemake et al shows a wireless LAN apparatus comprising a wireless transmit unit transmitting wirelessly the transmit frame output by the frame synthesizing unit (figure 1; paragraph 25; abstract).

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to incorporate the teaching of Shoemake into the teaching of Fitzgerald in order to enable the wireless devices to communicate with one another over the Internet.

Consider **Claim 3**, Fitzgerald et al as modified by Shoemake et al shows a wireless LAN apparatus as claimed in Claim 2, but fail to specifically show that

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the wireless LAN apparatus, wherein the packet length controlling unit comprises:

A timer, the timer restarting based on an input of a reset signal; a timer termination register, the timer termination register instructing a count termination value of the timer, and a force-transmit instructing device, the force-transmit instructing device outputting a transmit instructing signal to the packet synthesizing unit when a count value counted by the timer agrees with the count termination value instructed by the timer termination register, and wherein the packet synthesizing unit outputs the reset signal to the timer based on the output of the transmit packet data and prioritizes the transmit packet data over the packet-length information from the packet length register when the transmit instructing signal from the force-transmit instructing nit is input thereto to thereby output immediately the transmit packet.

However, in the same field of endeavor, Shoemake et al shows that the wireless LAN apparatus, wherein the packet length controlling unit comprises:

A timer, the timer restarting based on an input of a reset signal; a timer termination register, the timer termination register instructing a count termination value of the timer, and a force-transmit instructing device, the force-transmit instructing device outputting a transmit instructing signal to the packet synthesizing unit when a count value counted by the timer agrees with the count termination value instructed by the timer termination register, and wherein the packet synthesizing unit outputs the reset signal to the timer based on the output of the transmit packet data and prioritizes the transmit packet data over the



packet-length information from the packet length register when the transmit instructing signal from the force-transmit instructing nit is input thereto to thereby output immediately the transmit packet (figure 6; paragraphs 44.44. and 46). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to incorporate the teaching of Shoemake et al into the teaching of Fitzgerald in order to determine the effective data rate for transmission (Shoemake et al, paragraph 35).

Consider **Claim 4**, Fitzgerald et al as modified by Shoemake et al shows a wireless LAN apparatus as claimed in Claim 2, but fail to specifically show that the wireless LAN apparatus further comprises, as a transmitting-side configuration thereof, a data rate detecting unit, the data rate detecting unit detecting a transmit rate of the transmit data input to the packet synthesizing unit and outputting the detection result as a data rate detection signal, wherein the packet length controlling unit further comprises a packet-length rate controlling device, the packet-length rate controlling device increasing or decreasing the packet-length information from the packet length register based on the data rate detection signal from the data rate detecting unit.

However, in the same field of endeavor, Shoemake et al shows that wireless LAN apparatus further comprises, as a transmitting-side configuration thereof, a data rate detecting unit, the data rate detecting unit detecting a transmit rate of the transmit data input to the packet synthesizing unit and outputting the detection result as a data rate detection signal, wherein the packet length

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controlling unit further comprises a packet-length rate controlling device, the packet-length rate controlling device increasing or decreasing the packet-length information from the packet length register based on the data rate detection signal from the data rate detecting unit (abstract; paragraphs 15,30 and 35). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to incorporate the teaching of Shoemake et al into the teaching of Fitzgerald in order to derive a peak data rate as a function of packet length (Shoemake, paragraph 31).

Consider **Claim 7**, Fitzgerald as modified by Shoemake et al shows a wireless LAN apparatus as claimed in Claim 2, wherein as a receiving-side configuration of the apparatus, the wireless transmit unit creates a packet length control frame enabling the packet length of the transmit frame transmitted by another wireless LAN apparatus of the present invention and wirelessly transmits the packet length control frame to the another wireless LAN apparatus, further comprises: As the transmitting-side configuration thereof, a wireless receive unit, the wireless receive unit receiving the packet length control frame transmitted wirelessly by another wireless LAN apparatus configured likewise; and a packet length control frame detecting unit, the packet length control frame control frame detecting unit judging the packet length control frame received by the wireless receive unit and outputting a packet length request-to-reduce signal when the packet length control frame instructs the packet length to be reduced and a packet length request-to-extend signal when the packet length control frame

instructs the packet length to be extended, wherein as the transmitting-side configuration of the apparatus, the packet length controlling unit reduces the packet length information when the packet length request-to-reduce signal is input thereto and extends the packet length information when the packet length request-to-extend signal is input thereto (column 4, lines 64-67; column 5, lines 1-7; figure 1; paragraph 25; abstract).

Consider **Claim 10**, Fitzgerald et al as modified by Shoemake et al shows a wireless LAN apparatus as claimed in Claim 2, comprises:

- (a) As a receiving-side configuration thereof, a receive unit, the receive unit receiving the transmit frame transmitted by another apparatus configured likewise (figure 3).
- (b) A packet extracting unit, the packet extracting unit separating the received transmit frame into the transmit packet data and the header information (figure 3; column 3, lines 20-33); (the de-packetizer separates out the audio frames).
- (c) A packet length detecting unit, the packet length detecting unit detecting the packet-length information included in the transmit frame in the header information separated from the transmit frame by the packet extracting unit (column 5, lines 20-32); (after the audio frames are separated they are buffered in order to be processed).
- (d) A packet dividing unit, the packet dividing unit dividing the transmit packet data separated from the transmit frame by the packet extracting unit based on the packet-length information detected by the packet length detecting unit and

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outputting the divided transmit packet data, wherein as the transmitting-side configuration of the apparatus, the packet length controlling unit controls the packet length of the transmit data (column 4, lines 4-17).

However, Fitzgerald et al shows an apparatus, but does not specifically show detecting a transmit-channel-distortion information in the received transmit frame, and further does not show that controlling the packet length is based on the transmit-channel-distortion information detected by the wireless receive unit. In the same field of endeavor, Shoemake et al shows detecting a transmit-channel-distortion information in the received transmit frame, and further does not show that controlling the packet length is based on the transmit-channel-distortion information detected by the wireless receive unit (abstract; paragraphs 16, 30, and 32).

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to incorporate the teaching of Shoemake et al into the teaching of Fitzgerald in order to determine the need for length optimization (Shoemake, abstract).

Consider **Claim 12**, Fitzgerald et al in view of Shoemake et al show a wireless LAN apparatus as claimed in Claim 10, wherein as the receiving-side configuration thereof, the wireless receive unit outputs a peak-value information indicating the status of a peak value of a correlation signal in connection with a synchronous reference symbol of the transmit frame received from another wireless LAN apparatus configured likewise, further comprises:

As the receiving-side configuration thereof, a synchronous detection signal judging unit judging the status of transmission channel for transmitting wirelessly the transmit frame based on the peak-value information; and a packet-length information creating unit, the packet-length setting information for the transmit data based on the judgment result by the synchronous detection signal judging unit and outputting the packet-length setting information to the packet length controlling unit, wherein as the transmitting-side configuration of the apparatus, the packet length controlling unit controls the packet length of the transmit data based on the packet-length setting information.

***Allowable Subject Matter***

7. Claims **5,6,11,13,14,15, and 16** are allowed and objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Faragalla whose telephone number is (571) 270-1107. The examiner can normally be reached on Mon-Fri 7:30 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Faragalla

08/01/2007

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER